

CONCURRENCE COPY

CATTLE COMPENSATION (AMENDMENT) BILL, 1983

EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The objects of this Bill are—

- (a) to amend the Cattle Compensation Act, 1951 (“the Act”)—
 - (i) to provide that compensation shall be payable from the Cattle Compensation Fund to the owner of cattle which die as a result of tick fever (Schedule 1 (2) (b));
 - (ii) to provide that compensation shall be payable from the Cattle Compensation Fund to the owner of cattle which die, or are destroyed, as a result of injury received during certain testing or treatment for disease or during handling for the purpose of that testing or treatment (whether the injury occurred before, during or after the testing or treatment), unless that injury is attributable to a lack of reasonable care on the part of the owner, his servants or agents (Schedule 1 (2) (b));
 - (iii) to repeal certain provisions relating to the compensation payable to owners of cattle suffering from the disease bovine brucellosis, so that the compensation payable to those owners will be payable in the same circumstances, and assessed on the same basis, as for other diseases (Schedule 1 (3));
 - (iv) to provide that the amount of the compensation referred to in subparagraphs (i) and (ii) shall be a prescribed portion of the market value (subject to any prescribed deductions) of the cattle (Schedule 1 (4));
 - (v) to increase the penalties for certain offences under the Act (Schedule 2 (1), (2) (b), (6) (b), (7), (8) and (10) (a));
 - (vi) to vary the provisions of the Act which relate to the levying of a special rate by pastures protection boards on the owners of certain cattle as a consequence of amendments made to the Pastures Protection Act, 1934 (Schedule 2 (2) (a), (3), (4) and (5));
 - (vii) to provide that the Minister may by instrument in writing delegate to any person engaged in the administration of the Act the exercise or performance of any of the Minister’s powers, authorities, duties or functions under the Act, except the power to make any such delegation (Schedule 2 (9));

- (viii) by way of statute law revision (Schedule 3); and
 - (ix) to make other provisions of a minor, consequential or ancillary nature;
 - (b) to validate certain payments made from the Cattle Compensation Fund made by way of compensation to the owners of certain cattle (clause 6); and
 - (c) to make provisions of a saving and transitional nature (Schedule 4).
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CATTLE COMPENSATION (AMENDMENT) BILL, 1983

No. , 1983.

A BILL FOR

An Act to amend the Cattle Compensation Act, 1951, to permit certain payments of compensation from the Cattle Compensation Fund, to increase penalties, and in other respects; and to validate certain payments.

[MR DAY—15 *March*, 1983.]

Cattle Compensation (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

5 Short title.

1. This Act may be cited as the "Cattle Compensation (Amendment) Act, 1983".

Commencement.

2. (1) Except as provided by subsection (2), this Act shall commence on 10 the date of assent to this Act.

(2) Section 5 in its application to Schedule 1, and Schedule 1, shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Principal Act.

15 3. The Cattle Compensation Act, 1951, is referred to in this Act as the Principal Act.

Schedules.

4. This Act contains the following Schedules:—

20 SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO PAYMENTS OF COMPENSATION.

SCHEDULE 2.—MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT.

SCHEDULE 3.—AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE LAW REVISION.

25 SCHEDULE 4.—SAVINGS AND TRANSITIONAL PROVISIONS.

Cattle Compensation (Amendment).

Amendment of Act No. 26, 1951.

5 **5.** The Principal Act is amended in the manner set forth in Schedules 1-3.

Validation of certain payments.

5 **6.** Any payment made before the day appointed and notified under section 2 (2) from the Cattle Compensation Fund established under the Principal Act, being a payment—

10 (a) that could have been lawfully made under the Principal Act if the Principal Act, as amended by this Act, had been in force at the time the payment was made; and

 (b) that could not otherwise have been lawfully made,
is hereby validated.

Savings and transitional provisions.

7. Schedule 4 has effect.

15

SCHEDULE 1.

(Sec. 5.)

**AMENDMENTS TO THE PRINCIPAL ACT RELATING TO PAYMENTS OF
COMPENSATION.**

(1) (a) Section 3, definition of "Approved person"—

20

After the definition of "Abattoir", insert:—

"Approved person" means—

(a) an inspector appointed under the Stock Diseases Act, 1923; or

Cattle Compensation (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO PAYMENTS OF
COMPENSATION—*continued.*

- 5 (b) a person who is approved by the Minister either generally or in a particular case and who is—
- (i) a veterinary surgeon, within the meaning of the Veterinary Surgeons Act, 1923;
or
- 10 (ii) a person employed as a veterinary surgeon under an Act of the Parliament of the Commonwealth.

(b) Section 3, definition of “Market value”—

Omit the definition, insert instead:—

- 15 “Market value”, in relation to cattle, a carcass or a portion of a carcass, means the value of the cattle, carcass or portion calculated as upon a sale with delivery at the place where the cattle, the carcass or the portion are or is situated—
- 20 (a) in the case of cattle to which section 5 (1) (a), (c) or (d) applies—when the cattle are ordered to be destroyed;
- (b) in the case of cattle to which section 5 (1) (e) applies—when the cattle die;
- 25 (c) in the case of cattle to which section 5 (1) (f) applies—when the cattle are injured; or
- (d) in the case of a carcass or a portion of a carcass to which section 5 (1) (b) applies—when the carcass or portion is condemned as unfit for human consumption,
- 30 and as if the cattle, carcass or portion were free from injury and disease and were not unfit for human consumption.

Cattle Compensation (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO PAYMENTS OF
COMPENSATION—*continued.*

(2) (a) Section 5 (1) (d)—

5 Omit “with.”, insert instead “with; or”.

(b) Section 5 (1) (e), (f)—

After section 5 (1) (d), insert:—

(e) to the owner of any cattle which die in New South Wales
as a result of tick fever; not being cattle—

- 10 (i) to which paragraph (a), (c) or (d) applies; or
(ii) to the carcass or a portion of the carcass of which
paragraph (b) applies; or

(f) to the owner of any cattle which die in New South Wales
as a result of, or which are destroyed pursuant to the
order of an approved person given as a consequence of,
15 an injury sustained by the cattle in New South Wales—

(i) in the course of any testing or treatment of the
cattle which is carried out in pursuance of a
disease control or eradication programme con-
ducted pursuant to, or under the authority of,
20 the Stock Diseases Act, 1923; or

(ii) in the course of any mustering, yarding or other
handling of the cattle carried out for the purpose
of, or in connection with, testing or treatment
referred to in subparagraph (i), whether the
injury occurred before, during or after the testing
or treatment,

not being an injury sustained by the cattle as a direct
result of the failure by the owner of the cattle, or by
his servants or agents, to exercise reasonable care in
relation to the cattle.

(c) Section 5 (2)—

Omit the subsection.

Cattle Compensation (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO PAYMENTS OF
COMPENSATION—*continued.*

- (3) Sections 5A, 5B—
5 Omit the sections.
- (4) Section 6—
Omit the section, insert instead:—
Amount of compensation.
- 10 6. (1) Subject to this Act, the amount of compensation payable under this Act is—
- (a) in respect of cattle to which section 5 (1) (a) or (c) applies—
- 15 (i) if after destruction the cattle are found to be free from disease or no finding is made as to whether the cattle are diseased—the market value of the cattle, subject to any prescribed deductions; or
- (ii) if after destruction the cattle are found to be diseased—the prescribed portion of the market value of the cattle, subject to any prescribed deductions;
- 20 (b) in respect of a carcass or a portion of a carcass to which section 5 (1) (b) applies—such amount (whether or not assessed according to the market value of the carcass or portion) subject to any prescribed deductions, as may be prescribed;
- 25 (c) in respect of cattle to which section 5 (1) (d) applies—the prescribed portion of the market value of the cattle, subject to any prescribed deductions;
- (d) in respect of cattle to which section 5 (1) (e) applies—the prescribed portion of the market value of the cattle, subject to any prescribed deductions; and
- 30 (e) in respect of cattle to which section 5 (1) (f) applies—the prescribed portion of the market value of the cattle, subject to any prescribed deductions.

Cattle Compensation (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO PAYMENTS OF
COMPENSATION—*continued.*

- 5 (2) A reference in subsection (1) to the prescribed portion
of the market value of cattle is a reference to—
- (a) except in a case to which paragraph (b) applies—the
whole of the market value of the cattle; or
 - (b) such portion of the market value of the cattle as may be
prescribed by the regulations.
- 10 (5) (a) Section 7 (1)—
- Omit the subsection, insert instead:—
- (1) For the purposes of this Act, the market value of any
cattle, or of any carcass or portion of a carcass, shall be as
determined by agreement between the owner of the cattle,
15 carcass or portion and—
- (a) in the case of cattle to which section 5 (1) (a), (c)
or (d) applies—the person or approved person, as
the case may be, who made or gave the order for
destruction of the cattle;
 - 20 (b) in the case of a carcass or portion of a carcass to
which section 5 (1) (b) applies—the person under
whose authority the carcass or portion was condemned
as unfit for human consumption because of disease;
 - 25 (c) in the case of cattle to which section 5 (1) (e) applies
—a person appointed by the Minister for the purposes
of this paragraph;
 - (d) in the case of cattle to which section 5 (1) (f) applies
which are destroyed pursuant to the order of an
approved person—that approved person; or
 - 30 (e) in the case of cattle to which section 5 (1) (f) applies
which die as a result of injury—an approved person,
or a person appointed by the Minister for the purposes
of this paragraph.

Cattle Compensation (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO PAYMENTS OF
COMPENSATION—*continued.*

(b) Section 7 (3)—

5 Omit the subsection, insert instead:—

(3) Where the market value of any cattle or any carcass or
portion of a carcass is determined for the purposes of this
Act, the residual value of that cattle, carcass or portion, as the
10 case may be, shall be determined in the manner specified in this
section for the determination of the market value of the cattle,
carcass or portion.

(c) Section 7 (5)—

After section 7 (4), insert:—

(5) Notwithstanding subsections (1) and (2), the market
15 value of any one head of cattle shall, for the purposes of this
Act, not exceed the amount prescribed for the purposes of this
subsection.

(6) (a) Section 8 (1), (2)—

Omit the subsections, insert instead:—

20 (1) No compensation shall be payable under this Act in
respect of cattle, a carcass or a portion of a carcass unless the
owner of the cattle, carcass or portion makes an application
for compensation in the manner prescribed and unless the
application is verified as prescribed.

25 (2) An owner who makes an application under subsection
(1) in respect of cattle, a carcass or a portion of a carcass shall
forward with the application a certificate in the prescribed form
which has been completed and furnished by—

30 (a) the person with whom that owner is required to reach
agreement in respect of the market value of the cattle,

Cattle Compensation (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO PAYMENTS OF
COMPENSATION—*continued.*

- 5 carcass or portion, as the case may be, under section
7 (1); or
- (b) a person appointed by the Minister for the purposes
of this subsection.
- (b) Section 8 (3)—
After “destruction”, insert “or death”.
- 10 (c) Section 8 (4) (b)—
After “from disease”, insert “, or which died as a result of
disease,”.
- (d) Section 8 (4) (c)—
15 After “from any disease”, insert “, or which died as a result of
disease,”.
- (e) Section 8 (4) (e)—
Omit “person.”, insert instead “person; or”.
- (f) Section 8 (4) (f)—
After section 8 (4) (e), insert:—
- 20 (f) in respect of any cattle or a carcass or a portion of
a carcass, if compensation under this Act has
previously been paid in respect of the cattle, carcass
or portion, as the case may be.
- (7) (a) Section 19 (1) (b)—
25 After “condemned;”, insert “and”.

Cattle Compensation (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO PAYMENTS OF
COMPENSATION—*continued.*

(b) Section 19 (1) (d)—

5 Omit the paragraph.

SCHEDULE 2.

(Sec. 5.)

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT.

(1) Section 11—

10 Omit “two hundred dollars”, insert instead “\$2,000”.

(2) (a) Section 16c (1)—

Omit the subsection, insert instead:—

15 (1) Where, at 30th June in any year, a rate is prescribed
for the purposes of this Division, a person who at midnight on
that 30th June is the owner of cattle within a district shall in
the prescribed manner and within the prescribed time furnish
to the board for the district a return in or to the effect of the
prescribed form in respect of cattle so owned by him, other
20 than cattle in respect of which the person is required to furnish
a return of stock pursuant to section 39 (1) of the Pastures
Protection Act, 1934.

(b) Section 16c (2)—

Omit “one hundred dollars”, insert instead “\$1,000”.

Cattle Compensation (Amendment).

SCHEDULE 2—*continued.*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(3) Section 16D (1)—

Omit the subsection, insert instead:—

- 5 (1) Where, at 30th June in any year, a rate is prescribed for the purposes of this Division, each board shall, after that 30th June, levy in respect of the following year a special rate in the amount of the rate so prescribed, which shall be levied on—
- 10 (a) a person required by section 39 (1) of the Pastures Protection Act, 1934, to furnish to the board a return of stock owned by him at midnight on that 30th June—
- (i) where the return has been lodged in accordance with that Act—in respect of the number of cattle shown in the return as owned by him; or
- 15 (ii) where the return has not been lodged in accordance with that Act—in respect of the average number of cattle which the board determines could have been depastured, during the 5 years immediately preceding that 30th June, on the land in relation to which the return was required to be made; and
- 20 (b) a person required by section 16C (1) to furnish to the board a return of cattle owned by him at midnight on that 30th June—
- 25 (i) where the return has been lodged in accordance with that subsection—in respect of the number of cattle shown in the return as owned by him; or
- 30 (ii) where the return has not been lodged in accordance with that subsection—in respect of the number of cattle which the board determines, from any information in its possession, is the number of cattle which would have been disclosed as owned by him if he had lodged the return in accordance with that subsection.
- 35

Cattle Compensation (Amendment).

SCHEDULE 2—*continued.*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(4) Section 16E—

5 Omit “paragraph (a) of subsection (1) of section 16D”, insert instead “section 16D (1) on a person referred to in section 16D (1) (a)”.

(5) Section 16F (1)—

Omit “paragraph (b) of subsection (1) of section 16D”, insert instead “section 16D (1) on a person referred to in section 16D (1) (b)”.

(6) (a) Section 16I (3)—

10 Omit “of stock appointed under the Pastures Protection Act, 1934, a person appointed under that Act to exercise the powers of any such inspector, a veterinary officer of the Department of Agriculture”, insert instead “appointed under the Stock Diseases Act, 1923,”.

15 (b) Section 16I (4)—

Omit “one hundred dollars”, insert instead “\$1,000”.

(7) Section 17—

Omit “one hundred dollars”, insert instead “\$1,000”.

(8) Section 18 (1)—

20 Omit “two hundred dollars”, insert instead “\$2,000”.

(9) Section 18A—

After section 18, insert:—

Delegation.

25 18A. (1) In this section, “function” includes power, authority and duty.

Cattle Compensation (Amendment).

SCHEDULE 2—*continued.*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

5 (2) The Minister may, by instrument in writing, delegate to any person engaged in the administration of this Act the exercise or performance of such of the functions (other than this power of delegation) of the Minister under this Act as are specified in the instrument.

10 (3) A function the exercise or performance of which has been delegated under this section may, while the delegation remains unrevoked, be exercised or performed from time to time in accordance with the terms of the delegation by the delegate.

15 (4) A delegation under this section may be made subject to such conditions or limitations as to the exercise or performance of any function delegated, or as to time or circumstances, as may be specified in the instrument of delegation.

(5) Notwithstanding any delegation under this section, the Minister may continue to exercise or perform any function delegated.

20 (6) Any act or thing done or suffered by a delegate acting in the exercise of a delegation under this section has the same force and effect as it would have if it had been done or suffered by the Minister and shall be deemed to have been done or suffered by the Minister.

(7) The Minister may, by instrument in writing, revoke wholly or in part any delegation under this section.

25 (8) An instrument purporting to have been signed by a delegate of the Minister shall in all courts and before all persons acting judicially be received in evidence as if it were an instrument duly executed by the Minister and shall, until the contrary is proved, be deemed to be an instrument signed by a delegate of the Minister.

30 (9) Any instrument necessary to be executed and any notice, order, summons or other like document requiring authentication for the purpose of the exercise or performance of any function

Cattle Compensation (Amendment).

SCHEDULE 2—*continued.*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

5 delegated to any person under this section shall be sufficiently executed or authenticated, as the case may be, if signed by the delegate in such a way as to show that he does so under and in pursuance of the delegation.

(10) (a) Section 19 (1) (e)—

Omit “one hundred dollars”, insert instead “\$1,000”.

(b) Section 19 (3)—

10 Omit the subsection.

(11) Section 20—

After section 19, insert:—

Proceedings for offences.

15 20. Proceedings for an offence against this Act or the regulations shall be disposed of summarily before a court of petty sessions constituted by a stipendiary magistrate sitting alone.

SCHEDULE 3.

(Sec. 5.)

AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF
STATUTE LAW REVISION.

20

(1) (a) Section 3, definition of “Abattoir”—

Omit the definition, insert instead:—

“Abattoir” means a place which is, or which is required to be, licensed premises within the meaning of the Meat Industry Act, 1978.

Cattle Compensation (Amendment).

SCHEDULE 3—*continued.*AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF
STATUTE LAW REVISION—*continued.*

- (b) Section 3, definition of “Chief of the Division of Animal Health”—
5 Omit the definition of “Chief of the Division of Animal Industry”, insert
instead:—
“Chief of the Division of Animal Health” means the person for the time
being holding office or acting as the Chief, Division of Animal
Health, Department of Agriculture.
- 10 (2) (a) Section 8 (3)—
Omit “sixty”, insert instead “60”.
- (b) Section 8 (4) (b), (c), (d)—
Omit “Industry” wherever occurring, insert instead “Health”.
- (c) Section 8 (4) (c) (i)—
15 After “disease;”, insert “or”.
- (d) Section 8 (4) (c) (ii)—
Omit “if such”, insert instead “the”.
- (e) Section 8 (4A)—
20 Omit “paragraph (b) of subsection (4)”, insert instead “subsection (4)
(b)”.
- (f) Section 8 (4A)—
Omit “the said”, insert instead “that”.
- (g) Section 8 (5)—
Omit “Industry”, insert instead “Health”.
- 25 (h) Section 8 (5)—
Omit “two” wherever occurring, insert instead “2”.

Cattle Compensation (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF
STATUTE LAW REVISION—*continued.*

- (3) (a) Section 12 (3) (c)—
5 Omit “subsection (2) or (3) of section 7”, insert instead “section 7 (2) or (3)”.
- (b) Section 12 (3)—
Omit “Revenue”.
- (c) Section 12 (3)—
10 Omit “five per centum”, insert instead “5 per cent”.
- (d) Section 12 (3)—
Omit “twelve”, insert instead “12”.
- (4) Section 16c (2)—
Omit “two”, insert instead “2”.
- 15 (5) (a) Section 16D (2)—
Omit “ten”, insert instead “10”.
- (b) Section 16D (3)—
Omit “subparagraph (ii) of paragraph (a) of subsection (1)”, insert instead
“subsection (1) (a) (ii)”.
- 20 (6) Section 16E—
Omit “subsections (2), (3) and (4) of section 27 and subsections (3) and (4)
of section 30”, insert instead “section 27 (2), (3), (3A) and (4) and section
30 (3)”.
- (7) (a) Section 16F (2)—
25 Omit “subsection (1) of section 16D”, insert instead “section 16D (1)”.

Cattle Compensation (Amendment).

SCHEDULE 3—*continued.*AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF
STATUTE LAW REVISION—*continued.*

- (b) Section 16F (4)—
5 Omit “thirty-one”, insert instead “31”.
- (c) Section 16F (5)—
Omit “two”, insert instead “2”.
- (d) Section 16F (6)—
Omit “thirty-one”, insert instead “31”.
- 10 (e) Section 16F (7)—
Omit “subsection (1) of section 166”, insert instead “section 166 (1)”.
- (f) Section 16F (9)—
Omit “subsection (2) of section 16D”, insert instead “section 16D (2)”.
- (8) (a) Section 16FA (2)—
15 Omit “subsections (2), (3), (4) and (5) of section 19A”, insert instead
“section 19A (2), (3), (4) and (5)”.
- (b) Section 16FA (2)—
Omit “the said”, insert instead “those”.
- (9) (a) Section 16I (1)—
20 Omit “two” insert instead “2”.

Cattle Compensation (Amendment).

SCHEDULE 3—*continued.*AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF
STATUTE LAW REVISION—*continued.*

(b) Section 16I (1), (2)—

5 Omit “fourteen” wherever occurring, insert instead “14”.

(c) Section 16I (4)—

Omit “two”, insert instead “2”.

(10) Section 16J (5)—

Omit “twelve”, insert instead “12”.

10

SCHEDULE 4.

(Sec. 7.)

SAVINGS AND TRANSITIONAL PROVISIONS.

Interpretation.

1. In this Schedule, “the commencement” means the commencement of Schedule 1.

15 Market or residual value of cattle.

2. The market value or residual value of any cattle, carcass or portion of a carcass determined before the commencement in accordance with section 7 of the Principal Act, as in force immediately before the commencement, shall be deemed to be the market value or residual value, as the case may be, of the cattle, carcass or portion

20 for the purposes of the Principal Act, as amended by this Act.

Certificate pursuant to section 8 (2) of the Principal Act.

3. A certificate furnished before the commencement and required by section 8 (2) of the Principal Act, as in force immediately before the commencement, to be forwarded with an application for compensation, shall, if forwarded with the application after the

25 commencement, pursuant to section 8 (2) of the Principal Act, as amended by this Act, be deemed to be a certificate forwarded with an application for compensation in compliance with section 8 (2) of the Principal Act, as amended by this Act.

Cattle Compensation (Amendment).

SCHEDULE 4—*continued.*

SAVINGS AND TRANSITIONAL PROVISIONS—*continued.*

Proceedings for certain offences.

- 5 4. Notwithstanding anything in this Act, where a person commits an offence against the Principal Act or against regulations made under the Principal Act before the date of assent to this Act, and proceedings for the offence are disposed of on or after the date of assent to this Act, the person shall not be liable to any greater penalty than that to which he would have been liable if the proceedings had been disposed of immediately after the commission of the offence.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1983

(80c)



